DEPARTMENT OF ENVIRONMENTAL PROTECTION

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February 23, 2010

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This is to confirm our conversation on February 3, 2010 regarding New Jersey's Licensed Site Remediation Professional (LSRP) program authorized under the Site Remediation Reform Act. Specifically, the U.S. Environmental Protection Agency (EPA) was interested in how the Department will oversee the person responsible for conducting the remediation for sites subject to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or the Resource Conservation and Recovery Act (RCRA) under this new LSRP program.

As we had noted in our conversation, there will be no change in process for those CERCLA and RCRA cases where EPA has the case lead. The Department will continue to provide the same level of case review and support to EPA. Additionally, since the case will not be under the direct authority of the Department, the Department will not require the person responsible for conducting the remediation to hire a licensed site remediation professional to certify that work performed and documents submitted are consistent with all applicable remediation requirements adopted by the Department
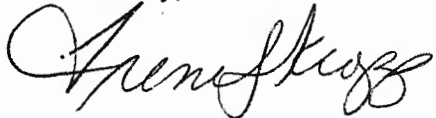
For existing CERCLA and RCRA cases where the Department has the case lead and for existing RCRA cases, the Department will require the person responsible for conducting remediation to

hire a licensed site remediation professional no later than May 7, 2012. In accordance with N.J.S.A. 58:10C-21(c)2, the Department may perform additional review of all submittals, and review the performance of a remediation, in particular cases. The Department is committed to ensure that this additional review for state-lead CERCLA and RCRA cases will reflect the same level of review that the cases currently receive under the traditional site remediation program and the Department will assign staff to each of these cases. Further, the Department will continue to ensure that the federal requirements regarding public participation are met at these state-lead cases. In accordance with N.J.S.A. 58:10C-21(e), the Department will direct the person responsible for conducting the remediation to not move forward until both the Department and EPA have approved of the proposed remediation. All of this will be further reflected in the oversight costs for the person responsible for conducting the remediation at these cases. They will not be subject to the new annual remediation fee but will instead continue to be subject to direct oversight costs pursuant to N.J.A.C. 7:26C-4.3(h)1.

The Department filed Interim Rules on November 4, 2009 to implement the changes required under the Site Remediation Reform Act. We intend to propose to readopt the Interim Rule in the Fall of 2010. We will not be making major changes to the Interim Rules at that time, but rather will be addressing deficiencies identified in this interim period. As part of those amendments, we will propose changes to N.J.A.C. 7:26C-2.4(a)3i that specifically note a person conducting remediation for a site subject to federal oversight cannot conduct the remediation without prior approval from the Department. Additionally, we will clarify that CERCLA and RCRA cases must continue to implement the federal method for public participation. Finally, we will also clarify that the person responsible for conducting remediation for CERCLA and RCRA cases with a federal lead will not be required to hire a LSRP.

If you have any additional questions regarding the implementation of the provisions of the Site Remediation Reform Act, please feel free to contact me.

Sincerely,

Irene Kropp
Assistant Commissioner
Site Remediation Program